

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

BRIAN HUDDLESTON,

Plaintiff,

v.

FEDERAL BUREAU OF
INVESTIGATION and UNITED
STATES DEPARTMENT OF JUSTICE,

Defendants.

CIVIL ACTION No. 4:20CV447

JUDGE AMOS MAZZANT

**DEFENDANT FBI'S SUR-REPLY IN OPPOSITION TO
PLAINTIFF'S CORRECTED MOTION FOR SUMMARY JUDGMENT**

Defendant Federal Bureau of Investigation (FBI) files this sur-reply in opposition to Plaintiff's Corrected Motion for Summary Judgment. [ECF 112].

INTRODUCTION

Plaintiff's reply contains no surprises and does not merit much of a response. [ECF 133]. Plaintiff continues his strategy of citing improper summary judgment evidence in support of conspiracy theories and speculation as justification for his repeated requests for additional searches and discovery about the searches. The FBI relies on its previously filed response in opposition to Plaintiff's arguments. [ECF 118]. Additionally, the FBI will respond briefly to Plaintiff's arguments regarding Lync, Teleporter, and Geolocation data.

A. Lync Messaging Systems

Plaintiff advances the same arguments regarding the Lync messaging system with additional references to the Durham Report. As before, other than general speculation that the Lync messaging system may contain responsive records, Plaintiff has articulated no facts to suggest that is the case.

B. Teleporter

Plaintiff asks for evidence that Teleporter is not a system of records. The attached declaration addresses Plaintiff's concerns. [Exhibit A: Declaration of Robert A. Eikhoff].

C. Geolocation Data

Plaintiff's motion for summary judgment contains no briefing or argument in support of his assertion that the FBI should be forced to search geolocation data. [ECF 112, p. 5-6]. In his reply, Plaintiff admits that he failed to attach emails to his summary judgment motion that set forth his arguments explaining why geolocation data should be searched. [ECF 133, p. 9]. Plaintiff now seeks to fault the FBI for not briefing the geolocation data issue, despite his admission that he failed to include the arguments. Plaintiff's position is untenable, and he himself waived the issue by failing to include it in his original summary judgment pleading.

CONCLUSION

The Court should reject Plaintiff's continued efforts to undermine the Court's findings in the Memorandum Order and Opinion by raising repetitive arguments that have either already been conclusively decided by the Court or are currently fully briefed and pending before the Court. Plaintiff has failed to establish that the searches were

inadequate, the exemptions were inappropriate, or that Defendants have acted in bad faith. Plaintiff's Corrected Motion for Summary Judgment should be denied.

Respectfully submitted,

DAMIEN M. DIGGS
UNITED STATES ATTORNEY

/s/ Andrea L. Parker
ANDREA L. PARKER
Assistant United States Attorney
Texas Bar No. 00790851
550 Fannin, Suite 1250
Beaumont, Texas 77701
Tel: (409) 839-2538
Fax: (409) 839-2550
Email: andrea.parker@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on September 1, 2023, a true and correct copy of the foregoing document was filed electronically with the court and has been sent to counsel of record via the court's electronic filing system.

/s/ Andrea L. Parker
ANDREA L. PARKER
Assistant United States Attorney